

**Statement of
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Department of Veterans Affairs
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Subcommittee on Disability Assistance and Memorial Affairs
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Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss the Department of Veterans Affairs (VA) Fully Developed Claims (FDC) program. I will first review the definition of an FDC and then describe the advantages of this program. Finally, I will summarize the VA's efforts to both inform Veterans and engage others to partner with us in this FDC program.

FDCs Defined

Claims are considered to be "fully developed" when Veterans submit a VA Form 21-526EZ (paper or electronic) and all available supporting evidence (such as private treatment records and evidence required in special circumstances, such as unit treatment and personnel records for Guard and Reserve members, notify VA of any federal treatment records at the time they first file a formal claim, and certify they have nothing further to give VA regarding the claim.

FDCs are the Fastest Way for Veterans to Receive a Claims Decision

The widespread submission of FDCs is essential to achieving VA's goal of providing all Veterans with decisions on their claims within 125 days at 98 percent accuracy in 2015. FDCs are the fastest way for Veterans to receive a decision on their claim because all supporting evidence needed from the Veteran is submitted with the claim. As of August 31, 2013, VA completes FDCs in an average of 123 days. When Veterans submit such evidence with their claims, it significantly reduces the amount of

time VA must spend gathering evidence from them or other sources. Often, this is evidence that VA must, by law, attempt to collect on the Veteran's behalf, even if it is already in the Veteran's possession, or is evidence the Veteran could more readily obtain, such as private treatment records. While some claim development may still be necessary, such as securing federal records or providing an examination, FDCs eliminate the need for VA to undertake an often lengthy search for evidence as mandated by the Veterans Claims Assistance Act of 2000. FDCs allow VA to go straight to gathering any required federal records and ordering any necessary medical examinations needed to decide the claim. This is advantageous for Veterans and VA. Eligible Veterans receive their benefits faster, and VA prevents claims from entering its backlog of work. FDCs are typically completed twice as fast as traditional compensation claims.

VA is continuing to implement several initiatives, including FDCs, to meet the Department's goal to eliminate the claims backlog in 2015. In April, VA launched an initiative to expedite disability compensation claims decisions for Veterans who have waited a year or longer to receive a rating decision. In May, VA announced that it was mandating overtime for claims processors in its 56 regional benefits offices to increase production of compensation claims decisions through the end of fiscal year (FY) 2013. By June 19, VA had completed over 97 percent of all claims over 2 years old, and turned its focus to those over one year old. As a result of these recent efforts coupled with many other people, process, and technology initiatives, as of August 31, the backlog of claims pending more than 125 days reached its lowest point since March 2011. The backlog has been reduced to approximately 460,000 claims, representing a 25 percent reduction from its peak in March 2013. In mid-August, VA had already completed one million claims, setting a record by reaching this goal a month earlier than planned.

Duty to Notify and Duty to Assist

VA is required to assist a claimant in substantiating a claim for compensation or other benefits. This assistance comprises the first phase of the claim process, also known as the development phase, and it is by far the lengthiest segment of the process currently

taking an average of 128 days. The requirements to notify and assist are primarily expressed in the following:

Duty to Notify: 38 U.S.C. § 5103 requires VA to provide the claimant and the claimant's representative, if any, notice of information needed to substantiate the claim, including medical or lay evidence not previously provided to VA. This requirement is met through the Veteran's use of the VA Form 21-526EZ (paper or electronic) in the FDC submission.

Duty to Assist: 38 U.S.C. § 5103A requires VA to make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate a claim. In particular, VA must assist the claimant by obtaining:

- Service treatment records and other relevant records pertaining to the claimant's active military, naval, or air service;
- Relevant, claimant-identified medical treatment or examination records at a VA facility or at a facility where care is at the expense of VA;
- Relevant, claimant-identified records held by any Federal department or agency by making requests for the records until such time that the records are secured, it is reasonably certain that such records do not exist, or that further efforts to obtain the records would be futile; and
- Relevant, claimant-identified private records by making no less than two requests for the records, unless the records are received after the first request or it is evident that a second request would be futile.

38 U.S.C. § 5103A also requires VA to provide a medical examination or obtain a medical opinion when such an examination or opinion is necessary to decide the claim.

Submitting FDCs Is Convenient

VA encourages Veterans to submit FDCs through the joint VA-Department of Defense (DoD) self-service Web portal, *eBenefits*, which provides online information and access to a wide variety of military and Veteran benefits resources. Some of the features within *eBenefits* allow Veterans and Servicemembers to access official military

personnel documents, electronically submit claims for compensation benefits, view the status of their disability compensation claims, transfer entitlement of Post-9/11 GI Bill to eligible dependents (Servicemembers only), and register for and update direct deposit information for certain benefits. This Web portal is located at:

<https://www.ebenefits.va.gov/>.

Partnership with Veterans Service Organizations

Veterans Service Organizations (VSOs), including State and County Departments of Veterans Affairs, are essential partners in the FDC program. These organizations have long played an integral role in submitting Veterans claims - often with representatives working within VA regional offices. VA has consulted with them throughout the development and implementation of VA's plan to end the backlog in 2015 to ensure best practices and their unique insights were incorporated, and they have stepped forward in full support of the FDC Program and our shared goal of better serving Veterans, their families, and Survivors. VA's goal in 2013 has been to increase FDC receipts to 20 percent of all claims received. With the support of our VSO partners, VA has already received over 130,000 FDCs this fiscal year, which represents almost 14 percent of all claims received. The 20-percent goal has been exceeded in this final quarter of fiscal year 2013, with 4th quarter FDC receipts increasing to almost 25 percent of all claims received.

As of August 31, 2013, VA completes FDCs in an average of 123 days -- less than half the time it takes to make a decision on a traditional claim. FDCs have been instrumental in helping to reduce the backlog, as VA saves a significant amount of time when evidence is provided at the start of the claims process.

FDC Exclusions

There are some circumstances that affect VA's ability to process an FDC in an expedited manner, causing VA to exclude some claims from the FDC program. We are working hard to minimize these exclusions through better outreach and training. The main reasons for exclusion have been administrative, such as when a claim or appeal is already pending, the wrong form is used, or the form is unsigned. Claims must be

excluded from the FDC program for non-administrative purposes as well. This typically occurs when a Veteran submits additional evidence after filing the FDC, when a Veteran explicitly declines FDC processing, or when VA must obtain evidence from non-federal sources. When VA must obtain evidence outside of its control, such as non-federal records, VA is unable to control the timeframe in which the records are received. Missed or rescheduled medical examinations also slow the process. VA has to exclude these types of claims from the FDC program because expedited processing cannot be provided.

Outreach

VA is aggressively pursuing expansion of the FDC program, and has conducted a number of outreach initiatives to encourage participation. FDC webinars have been held for claimants interested in the program and we have advertised the program through press releases, social media, and at VA facilities nationwide. VA has also distributed an FDC toolkit to every Congressional office to help VA increase FDC participation by adding information on this important program to Congressional webpages and in correspondence to constituents who are Veterans.

VA also continues to rely on our VSO partners in spreading the message about FDCs. As previously noted, VSO feedback was instrumental in creating the FDC program, and VA is continuing this partnership through the FDC Community of Practice. VA has partnered with The American Legion, Disabled American Veterans, and the National Association of State Directors of Veterans Affairs (NASDVA) to further improve the FDC program. VA also just recently welcomed The College of William and Mary Law School's Lewis B. Puller Jr. Veterans Law Clinic to the Community of Practice.

VA's Community of Practice partners are helping to identify best practices in the FDC program so they can be shared nationwide. VA recently held a workshop with these VSOs to provide updates on efforts to eliminate the claims backlog and to receive feedback from VSOs concerning the FDC program. In addition, each VA regional office is conducting local training and outreach workshops for VSOs and other partners, such as Congressional caseworkers and field staff, to ensure all stakeholders understand the importance of this program and how to help Veterans utilize it. Community of Practice

partners are committed to increasing the number of FDCs they file on behalf of Veterans that they represent. VA expects additional VSOs and Veterans' representatives will join the Community of Practice, helping to further improve the FDC process and increase the number of these claims. By leveraging each other's experience, knowledge and opportunities, we are building a dynamic community of advocates committed to providing Veterans with their earned benefits in support of VA's goal of eliminating the backlog.

One-Year Retroactive Benefits

Public Law 112-154, the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, provided authority to grant one year of retroactive compensation benefits for Veterans who file an original claim that is fully developed and received between August 6, 2013, and August 5, 2015. Interim guidance was issued to regional offices on August 2, 2013. This guidance instructed regional offices on the requirements for granting retroactive benefits, and it allows these benefits to be granted while the regulations are being developed.

To be eligible to receive these retroactive benefits, several requirements must be met. In addition to the criteria mentioned in the preceding paragraph, the claim must be complete. Veterans submitting informal or incomplete claims are not eligible for the retroactive benefits based on the informal or incomplete submission, though once the claim is completed it may be a basis for retroactive benefits if other criteria are met. Further, the claim must be received on a VA Form 21-526 EZ or online through *eBenefits*.

The effective date assigned for benefits awarded under these procedures may be up to one year prior to submission of the complete FDC, depending on evidence of when the disability was first diagnosed. If evidence submitted with the FDC shows that the level of disability to be assigned existed for one year prior to submission of the claim, then the Veteran will receive a one-year retroactive effective date. If the evidence of record supports less than one year of disability, as the disability was not present for one year prior to the date on which the claim was filed, then the effective date for benefits will be the date on which the disability was first diagnosed. In addition,

staged disability evaluations can be assigned if the evidence shows that the disability worsened during the one year prior to the date on which the claim was filed.

Regional offices continue to update local VSOs and other stakeholders about FDC program and encourage their support and participation. Regional offices are also providing training to local VSOs and encouraging them to help Veterans file applications online through the *eBenefits* Web portal and to utilize Disability Benefits Questionnaires (DBQ) if private medical records are being submitted. Utilizing these three tools – the FDC program, *eBenefits*, and DBQs – is the best way for Veterans to expedite the claims process and receive a decision more quickly.

Conclusion

The FDC program is a key component of VA's Transformation plan to eliminate the claims backlog. VA has seen FDC submissions steadily increase, and these claims are processed expeditiously. In addition, VA continues to prioritize other specific categories of claims, including: claims of seriously wounded, ill, and injured Servicemembers separating through the Integrated Disability Evaluation System; Medal of Honor recipients; former Prisoners of War; the homeless; terminally ill; and those experiencing extreme financial hardship. VA has expanded its collaborative partnerships through the FDC Community of Practice and will continue to work with VSOs and stakeholders to refine this program. Our partners and advocates have fully embraced the FDC program and have made commitments to submit FDCs in order to get Veterans faster decisions. We are joined together by our common belief that no Veteran or Survivor should wait extensive periods of time for the benefits they've earned. VA continues to reach out to stakeholders, Veterans, their families, and Survivors to educate them on the fastest way to receive a decision. This concludes my statement, Mr. Chairman. I would be happy to answer any questions you or the other Members of the Subcommittee may have.